THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION Nos.1868, 1869, 1870, 3289, 3290, 3291, 3292, 3293, 3615, 3616, 3617, 3618, 3815, 3816, 3817, 3818, 3819, 3820, 3821, 4573, 4577, 4578, 4579, 4580, 4581 4582 AND 4583 OF 2007

DATED: 15-03-2007

BETWEEN

K. Bhanuprasad,
S/o. Srinivasa Rao,
R/o. Ganginenipalem,
G. Konduru Mandal,
Krishna District
and others.

...PETITIONERS

AND

The Competent Authority,
M/s. Reliance Gas Pipelines Limited,
(Formerly: Gas Transportation and
Infrastructure Company Limited)
D.No.59-1-21A, Vijayawada,
Krishna District.

...RESPONDENT

ORDER:

Heard the learned counsel for the petitioners as well as the learned counsel appearing for the respondent.

2. Learned counsel for the petitioners submits that the petitioners herein are agriculturists and living purely on agriculture by cultivating their lands. He further submits that the petitioners developed their lands in many respects and in some of the lands of the petitioners there are teak, mango and other fruit bearing trees and there are trees

of different ages and the petitioners have spent huge amounts for cultivating the same, for pesticides, manure, fencing etc. While so, the Indian Gazette published on 26.02.2005 was intended to acquire the Right of User in Land for the purpose of laying pipeline for transportation of natural gas in Andhra Pradesh for M/s. Reliance Industries Limited.

3. The Union of India enacted the Petroleum and Minerals, Pipelines (Acquisition of Right of User in Land) Act, 1962 (for short 'the Act') with a view to provide acquisition of right of user in land for laying pipelines for the transport of petroleum and minerals and for matters connected therewith. Several amendments were also made to the Act from time to time. As per Section 2(a) of the Act, Competent Authority means any person or authority by the Central Government, by notification in the official Gazette, to perform the functions of the competent authority under the Act and different persons or authorities may be authorized to perform all or any of the functions of the competent authority under the Act in the same area or different areas as specified in the notification. Under Section 2(b) 'Corporation' means any body corporate established under any Central, Provincial or state Act and includes a company formed and registered under the Companies Act, 1956. Under Section 3 of the Act it is open for the Central Government to publish a notification for acquisition of the right of the user in land. On such notification issued under Section 3(1) the person authorized to lay the pipelines for transportation of petroleum or any other mineral is entitled to enter upon a survey and take levels of any land specified in the notification; to dig or bore into the sub-soil; to set out the intended line of work; to mark such levels, boundaries and line by placing marks and cutting trenches and to do all other acts

necessary to ascertain whether pipelines can be laid under the land. After such notification under Section 3(1) is issued it is open for any interested person to file objections within 21 days from the date of the notification. If any such objections are filed a reasonable opportunity shall be given to such person or his advocate and consider the objections and pass appropriate orders either allowing or disallowing the objections.

After considering the objections under Section 5(1) and passing the order under Section 5(2), the declaration of acquisition of right of user has to be made under Section 6(1) of the Act that such land is required for laying pipelines for transportation of petroleum or minerals by publishing a notification in the Official Gazette that the right of user in the land for laying the pipelines vests in the Central Government. After such notification the Competent Authority is empowered to take appropriate action to take necessary enquiry by entering into the land and inspecting the same by noting down the physical features of the agricultural lands, trees, standing crops etc and pass appropriate orders for payment of compensation. The ryots are entitled to 10% of the market value in respect of the land sought to be acquired for laying pipelines.

4. Learned counsel for the petitioners submits that the petitioners are entitled for the damages sustained by them while survey of the land was conducted under Section 4 of the Act and also entitled for the damages sustained for trees, standing crops, fencing etc. He further submits that without serving any notice and without conducting any panchanama the respondent being a might authority is forcibly entering into the lands of the poor agricultural ryots.

5. Counter has been filed by the respondent stating that by

notification dated 30.05.2003 the Government of India in exercise of powers under Section 3(1) of the Act declared its intention to acquire the Right of User in respect of the lands described in the schedule annexed to the said notification for the purpose of laying pipeline by the Gas Transportation and Infrastructure Company Limited known as the respondent. It is stated that by letter dated 23.06.2003 the Competent Authority, inter alia, served a copy of the notification dated 30.05.2003 upon the petitioners and in fact, some of the petitioners have filed objections to the notification under Section 3(1) of the Act and inter alia requested the Competent Authority to shift the pipeline alignment claiming that they would be loosing fruit bearing mango trees and other trees. The Competent Authority addressed letters to the petitioners rejecting their request for re-alignment of the pipelines and informed that they would be entitled to receive compensation for the land, crop and the fruit bearing trees in accordance with the provisions of the Act. But the petitioners have raised objections again which were also rejected. In terms of provisions of Section 6(1) of the Act the Competent Authority considered the objections and submitted a report to the Central Government recommending acquisition of Right of User in the lands described in the schedule annexed to the notification dated 30.05.2003. After considering the report of the Competent Authority by a notification dated 23.02.2005 the Central government declared the acquisition of the Right of User in the land specified in the said schedule. The Central Government in terms of Section 6(4) of the Act directed that the Right of User in the said lands for laying the pipeline, instead of vesting in the Central Government, shall vest, in the respondent corporation, which is the Competent Authority. It is further stated that by letter dated 18.05.2006 the Competent Authority, inter alia, served upon the petitioners a copy of the notification under

Sections 6(1) and 6(4) of the Act.

6. Sri B. Prakash Reddy, learned counsel appearing for the respondent, submits that though notices were issued by giving a beating of tom tom in the village all the petitioners did not participate in the panchanama. He further submits that the respondent is inclined to consider the request of the petitioners with regard to their grievance and accorded to conduct panchanama in respect of their lands by issuing prior notice to them informing them the date on which the panchnama will be conducted. Thereafter only the panchanama will be conducted apart from following the due procedure laid down under the Act with regard to the payment of compensation.

7. Learned counsel for the petitioner submits that in respect of certain lands of the petitioners' some trees have fallen down and they are still lying on the ground, therefore, the said fact also requires to be considered. He further submits that as the respondent officials tried to cut down the trees in respect of certain lands of the petitioners,
the petitioners along with other villagers mobbed the respondent authorities and prevented them from cutting the trees. Therefore, the respondent filed a complaint and a criminal has been registered against the petitioners.

8. Learned counsel for the respondent fairly submits that the respondent authority would withdraw the criminal case filed against the petitioners.

Having regard to the facts and circumstances of the case,
the writ petitions are disposed of directing the respondent to issue prior notice to the petitioners as well as to their counsel appearing in the writ petitions fixing the date and time for conducting panchanama to note down the physical features over the lands of the petitioners,

so as to enable the respondent to take into consideration the physical features while passing the award for payment of compensation in accordance with law. There shall be no order as to costs.

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V. ESWARAIAH, J

March 15, 2007
DSK